

107TH CONGRESS
1ST SESSION

H. R. 3150

AN ACT

To improve aviation security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; AMENDMENTS TO TITLE 49,**
 2 **UNITED STATES CODE; TABLE OF CONTENTS.**

3 (a) SHORT TITLE.—This Act may be cited as the
 4 “Airport Security Federalization Act of 2001”.

5 (b) AMENDMENTS TO TITLE 49, UNITED STATES
 6 CODE.—Except as otherwise specifically provided, when-
 7 ever in this Act an amendment or repeal is expressed in
 8 terms of an amendment to, or repeal of, a section or other
 9 provision of law, the reference shall be considered to be
 10 made to a section or other provision of title 49, United
 11 States Code.

12 (c) TABLE OF CONTENTS.—The table of contents for
 13 this Act is as follows:

Sec. 1. Short title; amendments to title 49, United States Code; table of con-
 tents.

TITLE I—AVIATION SECURITY

- Sec. 101. Transportation Security Administration.
- Sec. 102. Screening of passengers and property.
- Sec. 103. Security programs.
- Sec. 104. Employment standards and training.
- Sec. 105. Deployment of Federal air marshals.
- Sec. 106. Enhanced security measures.
- Sec. 107. Criminal history record check for screeners and others.
- Sec. 108. Passenger and baggage screening fee.
- Sec. 109. Authorizations of appropriations.
- Sec. 110. Limitation on liability for acts to thwart criminal violence or aircraft piracy.
- Sec. 111. Passenger manifests.
- Sec. 112. Transportation security oversight board.
- Sec. 113. Airport improvement programs.
- Sec. 114. Technical corrections.
- Sec. 115. Alcohol and controlled substance testing.
- Sec. 116. Conforming amendments to subtitle VII.
- Sec. 117. Savings provision.
- Sec. 118. Budget submissions.
- Sec. 119. Aircraft operations in enhanced class B airspace.
- Sec. 120. Waivers for certain isolated communities.
- Sec. 121. Assessments of threats to airports.
- Sec. 122. Requirement to honor passenger tickets of other carriers.

Sec. 123. Sense of Congress on certain aviation matters.

TITLE II—VICTIMS COMPENSATION

Sec. 201. Limitation on liability for damages arising out of crashes of September 11, 2001.

1 **TITLE I—AVIATION SECURITY**

2 **SEC. 101. TRANSPORTATION SECURITY ADMINISTRATION.**

3 (a) IN GENERAL.—Chapter 1 is amended by adding
4 at the end the following:

5 **“§ 114. Transportation Security Administration**

6 “(a) IN GENERAL.—The Transportation Security
7 Administration shall be an administration of the Depart-
8 ment of Transportation.

9 “(b) UNDER SECRETARY.—

10 “(1) APPOINTMENT.—The head of the Adminis-
11 tration shall be the Under Secretary of Transpor-
12 tation for Security. The Under Secretary shall be
13 appointed by the President, by and with the advice
14 and consent of the Senate.

15 “(2) QUALIFICATIONS.—The Under Secretary
16 must—

17 “(A) be a citizen of the United States; and

18 “(B) have experience in a field directly re-
19 lated to transportation or security.

20 “(3) TERM.—The term of office of an indi-
21 vidual appointed as the Under Secretary shall be 5
22 years.

1 “(c) LIMITATION ON PECUNIARY INTERESTS.—The
2 Under Secretary may not have a pecuniary interest in, or
3 own stock in or bonds of, a transportation or security en-
4 terprise, or an enterprise that makes equipment that could
5 be used for security purposes.

6 “(d) FUNCTIONS.—

7 “(1) IN GENERAL.—The Under Secretary shall
8 be responsible for security in all modes of transpor-
9 tation, including—

10 “(A) carrying out chapter 449 relating to
11 civil aviation security; and

12 “(B) security responsibilities over nonavia-
13 tion modes of transportation that are exercised
14 by Administrations of the Department of
15 Transportation (other than the Federal Avia-
16 tion Administration).

17 “(2) SCHEDULE FOR ASSUMPTION OF CIVIL
18 AVIATION SECURITY FUNCTIONS.—Not later than 3
19 months after the date of enactment of this section,
20 the Under Secretary shall assume civil aviation secu-
21 rity functions and responsibilities under chapter 449
22 in accordance with a schedule to be developed by the
23 Secretary of Transportation, in consultation with air
24 carriers, foreign air carriers, and the Administrator
25 of the Federal Aviation Administration. The Under

1 Secretary shall publish an appropriate notice of the
2 transfer of such security functions and responsibil-
3 ities before assuming the functions and responsibil-
4 ities.

5 “(3) ASSIGNMENT OF CONTRACTS.—Upon re-
6 quest of the Under Secretary, an air carrier or for-
7 eign air carrier carrying out a screening or security
8 function under chapter 449 may enter into an agree-
9 ment with the Under Secretary to transfer any con-
10 tract the carrier has entered into with respect to
11 carrying out such function, before the Under Sec-
12 retary assumes responsibility of such function.

13 “(e) ADDITIONAL DUTIES AND POWERS.—In addi-
14 tion to carrying out the functions specified in subsection
15 (d), the Under Secretary shall—

16 “(1) receive, assess, and distribute intelligence
17 information related to transportation security;

18 “(2) assess threats to transportation;

19 “(3) develop policies, strategies, and plans for
20 dealing with threats to transportation security;

21 “(4) make other plans related to transportation
22 security, including coordinating countermeasures
23 with appropriate departments, agencies, and instru-
24 mentalities of the United States Government;

1 “(5) serve as the primary liaison for transpor-
2 tation security to the intelligence and law enforce-
3 ment communities;

4 “(6) supervise all airport security and screening
5 services using Federal uniformed personnel;

6 “(7) on a day-to-day basis, manage and provide
7 operational guidance to the field security resources
8 of the Administration, including Federal Security
9 Managers as provided by section 44933;

10 “(8) enforce security-related regulations and re-
11 quirements;

12 “(9) identify and undertake research and devel-
13 opment activities necessary to enhance transpor-
14 tation security;

15 “(10) inspect, maintain, and test security facili-
16 ties, equipment, and systems;

17 “(11) ensure the adequacy of security measures
18 for the transportation of cargo;

19 “(12) oversee the implementation, and ensure
20 the adequacy, of security measures at airports and
21 other transportation facilities;

22 “(13) perform background checks for airport
23 security screening personnel, individuals with
24 unescorted access to secure areas of airports, and
25 other transportation security personnel;

1 “(14) develop standards for the hiring and re-
2 tention of security screening personnel;

3 “(15) train and test security screening per-
4 sonnel; and

5 “(16) carry out such other duties, and exercise
6 such other powers, relating to transportation secu-
7 rity as the Under Secretary considers appropriate, to
8 the extent authorized by law.

9 “(f) ACQUISITIONS.—

10 “(1) IN GENERAL.—The Under Secretary is
11 authorized—

12 “(A) to acquire (by purchase, lease, con-
13 demnation, or otherwise) such real property, or
14 any interest therein, within and outside the con-
15 tinental United States, as the Under Secretary
16 considers necessary;

17 “(B) to acquire (by purchase, lease, con-
18 demnation, or otherwise) and to construct, re-
19 pair, operate, and maintain such personal prop-
20 erty (including office space and patents), or any
21 interest therein, within and outside the conti-
22 nental United States, as the Under Secretary
23 considers necessary;

24 “(C) to lease to others such real and per-
25 sonal property and to provide by contract or

1 otherwise for necessary facilities for the welfare
2 of its employees and to acquire maintain and
3 operate equipment for these facilities;

4 “(D) to acquire (by purchase, lease, con-
5 demnation, or otherwise) and to construct, re-
6 pair, operate, and maintain research and test-
7 ing sites and facilities; and

8 “(E) in cooperation with the Administrator
9 of the Federal Aviation Administration, to uti-
10 lize the research and development facilities of
11 the Federal Aviation Administration located in
12 Atlantic City, New Jersey.

13 “(2) TITLE.—Title to any property or interest
14 therein acquired pursuant to this subsection shall be
15 held by the Government of the United States.

16 “(g) TRANSFERS OF FUNDS.—The Under Secretary
17 is authorized to accept transfers of unobligated balances
18 and unexpended balances of funds appropriated to other
19 Federal agencies (as such term is defined in section
20 551(1) of title 5) to carry out functions transferred, on
21 or after the date of enactment of this section, by law to
22 the Under Secretary.

23 “(h) REGULATIONS.—

24 “(1) IN GENERAL.—The Under Secretary is au-
25 thorized to issue, rescind, and revise such regula-

1 tions as are necessary to carry out the functions of
2 the Administration.

3 “(2) EMERGENCY PROCEDURES.—

4 “(A) IN GENERAL.—Notwithstanding any
5 other provision of law or executive order (in-
6 cluding an executive order requiring a cost-ben-
7 efit analysis) if the Under Secretary determines
8 that a regulation or security directive must be
9 issued immediately in order to protect transpor-
10 tation security, the Under Secretary shall issue
11 the regulation or security directive without pro-
12 viding notice or an opportunity for comment
13 and without prior approval of the Secretary.

14 “(B) REVIEW BY TRANSPORTATION SECU-
15 RITY OVERSIGHT BOARD.—Any regulation or
16 security directive issued under this paragraph
17 shall be subject to disapproval by the Transpor-
18 tation Security Oversight Board established
19 under section 44951. Any regulation or security
20 directive issued under this paragraph shall re-
21 main effective until disapproved by the Board
22 or rescinded by the Under Secretary.

23 “(i) PERSONNEL AND SERVICES; COOPERATION BY
24 UNDER SECRETARY.—

1 “(1) AUTHORITY OF UNDER SECRETARY.—In
2 carrying out the functions of the Administration, the
3 Under Secretary shall have the same authority as is
4 provided to the Administrator of the Federal Avia-
5 tion Administration under subsections (l) and (m) of
6 section 106.

7 “(2) AUTHORITY OF AGENCY HEADS.—The
8 head of a Federal agency shall have the same au-
9 thority to provide services, supplies, equipment, per-
10 sonnel, and facilities to the Under Secretary as the
11 head has to provide services, supplies, equipment,
12 personnel, and facilities to the Administrator of the
13 Federal Aviation Administration under section
14 106(m).

15 “(j) PERSONNEL MANAGEMENT SYSTEM.—The per-
16 sonnel management system established by the Adminis-
17 trator of the Federal Aviation Administration under sec-
18 tion 40122 shall apply to employees of the Transportation
19 Security Administration, except that subject to the re-
20 quirements of such section, the Under Secretary may
21 make such modifications to the personnel management
22 system with respect to such employees as the Under Sec-
23 retary considers appropriate.

24 “(k) ACQUISITION MANAGEMENT SYSTEM.—The ac-
25 quisition management system established by the Adminis-

1 trator of the Federal Aviation Administration under sec-
2 tion 40110 shall apply to acquisitions of equipment and
3 materials by the Transportation Security Administration,
4 except that subject to the requirements of such section,
5 the Under Secretary may make such modifications to the
6 acquisition management system with respect to such ac-
7 quisitions of equipment and materials as the Under Sec-
8 retary considers appropriate.

9 “(l) AUTHORITY OF INSPECTOR GENERAL.—The
10 Transportation Security Administration shall be subject to
11 the Inspector General Act of 1978 (5 U.S.C. App.) and
12 other laws relating to the authority of the Inspector Gen-
13 eral of the Department of Transportation.”.

14 (b) CONFORMING AMENDMENT.—The analysis for
15 chapter 1 is amended by adding at the end the following:
 “114. Transportation Security Administration.”.

16 (c) POSITION OF UNDER SECRETARY IN EXECUTIVE
17 SCHEDULE.—Section 5313 of title 5, United States Code,
18 is amended by adding at the end the following:

19 “The Under Secretary of Transportation for
20 Security”.

21 (d) PERSONNEL OF OTHER AGENCIES.—The last
22 sentence of section 106(m) is amended by inserting “per-
23 sonnel and” before “supplies and equipment”.

24 (e) SECURITY AND RESEARCH AND DEVELOPMENT
25 ACTIVITIES.—Section 40119 is amended—

1 (1) in subsection (a) by striking “Administrator
2 of the Federal Aviation Administration” and insert-
3 ing “Under Secretary of Transportation for Secu-
4 rity”; and

5 (2) in subsections (b) and (c) by striking “Ad-
6 ministrator” each place it appears and inserting
7 “Under Secretary”.

8 (f) REFERENCES TO FAA IN CHAPTER 449.—Chap-
9 ter 449 is amended—

10 (1) in section 44904(b)(5) by striking “the Ad-
11 ministration” and inserting “the Transportation Se-
12 curity Administration”;

13 (2) in the second sentence of section
14 44913(a)(1) by striking “of the Administration” and
15 inserting “of the Transportation Security Adminis-
16 tration”;

17 (3) in section 44916(a)—

18 (A) in the first sentence by striking “Ad-
19 ministrator” and inserting “Under Secretary of
20 Transportation for Security”; and

21 (B) in the second sentence by striking
22 “Administration” and inserting “Transpor-
23 tation Security Administration”;

1 (4) in each of sections 44933(a) and 44934(b)
 2 by striking “Assistant Administrator for Civil Avia-
 3 tion Security” and inserting “Under Secretary”;

4 (5) in section 44934(b)(1) by striking “Assist-
 5 ant Administrator” and inserting “Under Sec-
 6 retary”;

7 (6) by striking sections 44931 and 44932 and
 8 the items relating to such sections in the analysis for
 9 such chapter;

10 (7) by striking “Administrator” each place it
 11 appears in such chapter (except in subsections (f)
 12 and (h) of section 44936) and inserting “Under Sec-
 13 retary”;

14 (8) by striking “Administrator’s” each place it
 15 appears in such chapter and inserting “Under Sec-
 16 retary’s”; and

17 (9) by striking “of the Federal Aviation Admin-
 18 istration” each place it appears in such chapter (ex-
 19 cept in section 44936(f)) and inserting “of Trans-
 20 portation for Security”.

21 **SEC. 102. SCREENING OF PASSENGERS AND PROPERTY.**

22 Section 44901 of such title is amended—

23 (1) in subsection (a)—

24 (A) by striking “a cabin of”; and

1 (B) by striking “a weapon-detecting” and
2 all that follows through the period at the end
3 of the second sentence and inserting “persons
4 and procedures acceptable to the Under Sec-
5 retary (or the Administrator before responsibil-
6 ities under this subsection are assumed by the
7 Under Secretary).”; and

8 (2) by adding at the end the following:

9 “(d) ASSUMPTION OF SCREENING FUNCTION BY
10 UNDER SECRETARY.—

11 “(1) IN GENERAL.—The responsibility for the
12 screening of passengers and property on passenger
13 aircraft in air transportation that originates in the
14 United States or intrastate air transportation that,
15 on the date of enactment of this subsection, was per-
16 formed by an employee or agent of an air carrier,
17 intrastate air carrier, or foreign air carrier shall be
18 assumed by the Under Secretary.

19 “(2) ADDITIONAL SCREENING AUTHORITY.—
20 The Under Secretary may perform any such addi-
21 tional screening of passengers and property on pas-
22 senger aircraft in air transportation that originates
23 in the United States or intrastate air transportation
24 that the Under Secretary deems necessary to en-
25 hance aviation security.

1 “(e) SUPERVISION OF SCREENING.—All screening of
2 passengers and property at airports under this section
3 shall be supervised by uniformed Federal personnel of the
4 Transportation Security Administration who shall have
5 the power to order the dismissal of any individual per-
6 forming such screening.

7 “(f) LIMITATION ON RIGHT TO STRIKE.—An indi-
8 vidual that screens passengers or property, or both, at an
9 airport under this section may not participate in a strike,
10 or assert the right to strike, against the person (including
11 a governmental entity) employing such individual to per-
12 form such screening.

13 “(g) DEPUTIZATION OF AIRPORT SCREENING PER-
14 SONNEL.—The Under Secretary shall deputize, for en-
15 forcement of such Federal laws as the Under Secretary
16 determines appropriate, all airport screening personnel as
17 Federal transportation security agents and shall ensure
18 that such agents operate under common standards and
19 common uniform, insignia, and badges.”.

20 **SEC. 103. SECURITY PROGRAMS.**

21 Section 44903(c) is amended—

22 (1) in the first sentence of paragraph (1)—

23 (A) by striking “a law enforcement pres-
24 ence” and inserting “a law enforcement or mili-
25 tary presence”; and

1 (B) by inserting after “at each of those
2 airports” the following: “and at each location at
3 those airports where passengers are screened”;
4 and

5 (2) in paragraph (2)(C)(i) by striking “shall
6 issue an amendment to air carrier security programs
7 to require” and inserting “shall require”.

8 **SEC. 104. EMPLOYMENT STANDARDS AND TRAINING.**

9 (a) EMPLOYMENT STANDARDS.—Section 44935(a) is
10 amended—

11 (1) in the first sentence by inserting “, per-
12 sonnel who screen passengers and property,” after
13 “air carrier personnel”;

14 (2) by striking “and” at the end of paragraph
15 (4);

16 (3) by striking the period at the end of para-
17 graph (5) and inserting a semicolon; and

18 (4) by adding at the end the following:

19 “(6) a requirement that all personnel who
20 screen passengers and property be citizens of the
21 United States;

22 “(7) a requirement that any private security
23 firm retained to provide airport security services be
24 owned and controlled by a citizen of the United
25 States, to the extent that the President determines

1 that there are firms owned and controlled by such
2 citizens;

3 “(8) minimum compensation levels, when ap-
4 propriate;

5 “(9) a preference for the hiring of any indi-
6 vidual who is a member or former member of the
7 armed forces and who is entitled, under statute, to
8 retired, retirement, or retainer pay on account of
9 service as a member of the armed forces; and

10 “(10) a preference for the hiring of any indi-
11 vidual who is a former employee of an air carrier
12 and whose employment with the air carrier was ter-
13 minated as a result of a reduction in the workforce
14 of the air carrier.”.

15 (b) FINAL RULES ESTABLISHING TRAINING STAND-
16 ARDS FOR SCREENERS.—Section 44935(e)(1) is amended
17 by striking “May 31, 2001” and inserting “6 months after
18 the date of enactment of the Airport Security Federaliza-
19 tion Act of 2001”.

20 (c) EMPLOYMENT STANDARDS FOR SCREENERS;
21 UNIFORMS.—Section 44935 is amended by adding at the
22 end the following:

23 “(g) TRAINING FOR ALL SCREENERS, SUPERVISORS,
24 AND INSTRUCTORS.—

1 “(1) IN GENERAL.—The Under Secretary shall
2 require any individual who screens passengers and
3 property pursuant to section 44901, and the super-
4 visors and instructors of such individuals, to have
5 satisfactorily completed all initial, recurrent, and ap-
6 propriate specialized training necessary to ensure
7 compliance with the requirements of this section.

8 “(2) ON-THE-JOB PORTION OF SCREENER’S
9 TRAINING.—Notwithstanding paragraph (1), the
10 Under Secretary may permit an individual, during
11 the on-the-job portion of training, to perform secu-
12 rity functions if the individual is closely supervised
13 and does not make independent judgments as to
14 whether persons or property may enter secure areas
15 or aircraft or whether cargo may be loaded aboard
16 aircraft without further inspection.

17 “(3) EFFECT OF SCREENER’S FAILURE OF OP-
18 ERATION TEST.—The Under Secretary may not
19 allow an individual to perform a screening function
20 after the individual has failed an operational test re-
21 lated to that function until the individual has suc-
22 cessfully completed remedial training.

23 “(h) UNIFORMS.—The Under Secretary shall require
24 any individual who screens passengers and property pur-

1 suant section 44901 to be attired in a uniform, approved
2 by the Under Secretary, while on duty.”.

3 (d) INTERIM EMPLOYMENT STANDARDS FOR
4 SCREENING PERSONNEL.—In the period beginning 30
5 days after the date of the enactment of this Act and end-
6 ing on the first date that a final rule issued by the Under
7 Secretary of Transportation for Security under section
8 44935(e)(1) of title 49, United States Code, takes effect,
9 the following requirements shall apply to an individual
10 who screens passengers and property pursuant to section
11 44901 of such title (in this subsection referred to as a
12 “screener”):

13 (1) EDUCATION.—A screener shall have a high
14 school diploma, a general equivalency diploma, or a
15 combination of education and experience that the
16 Under Secretary has determined to have equipped
17 the individual to perform the duties of the screening
18 position.

19 (2) BASIC APTITUDES AND PHYSICAL ABILI-
20 TIES.—A screener shall have basic aptitudes and
21 physical abilities (including color perception, visual
22 and aural acuity, physical coordination, and motor
23 skills) and shall have—

1 (A) the ability to identify the components
2 that may constitute an explosive or an incen-
3 diary device;

4 (B) the ability to identify objects that ap-
5 pear to match those items described in all cur-
6 rent regulations, security directives, and emer-
7 gency amendments;

8 (C) for screeners operating X-ray and ex-
9 plosives detection system equipment, the ability
10 to distinguish on the equipment monitors the
11 appropriate images;

12 (D) for screeners operating any screening
13 equipment, the ability to distinguish each color
14 displayed on every type of screening equipment
15 and explain what each color signifies;

16 (E) the ability to hear and respond to the
17 spoken voice and to audible alarms generated
18 by screening equipment in an active checkpoint
19 or other screening environment;

20 (F) for screeners performing manual
21 searches or other related operations, the ability
22 to efficiently and thoroughly manipulate and
23 handle such baggage, containers, cargo, and
24 other objects subject to security processing;

1 (G) for screeners performing manual
2 searches of cargo, the ability to use tools that
3 allow for opening and closing boxes, crates, or
4 other common cargo packaging;

5 (H) for screeners performing screening of
6 cargo, the ability to stop the transfer of suspect
7 cargo to passenger air carriers;

8 (I) for screeners performing pat-down or
9 hand-held metal detector searches of persons,
10 sufficient dexterity and capability to thoroughly
11 conduct those procedures over a person's entire
12 body; and

13 (J) the ability to demonstrate daily a fit-
14 ness for duty without any impairment due to il-
15 legal drugs, sleep deprivation, medication, or al-
16 cohol.

17 (3) COMMAND OF ENGLISH LANGUAGE.—A
18 screener shall be able to read, speak, write, and un-
19 derstand the English language well enough to—

20 (A) carry out written and oral instructions
21 regarding the proper performance of screening
22 duties;

23 (B) read English language identification
24 media, credentials, airline tickets, documents,

1 air waybills, invoices, and labels on items nor-
2 mally encountered in the screening process;

3 (C) provide direction to and understand
4 and answer questions from English-speaking
5 persons undergoing screening or submitting
6 cargo for screening; and

7 (D) write incident reports and statements
8 and log entries into security records in the
9 English language.

10 **SEC. 105. DEPLOYMENT OF FEDERAL AIR MARSHALS.**

11 (a) IN GENERAL.—Subchapter I of chapter 449 is
12 amended by adding at the end the following:

13 **“§ 44917. Deployment of Federal air marshals**

14 “(a) IN GENERAL.—The Under Secretary of Trans-
15 portation for Security under the authority provided by sec-
16 tion 44903(d) shall—

17 “(1) provide for deployment of Federal air mar-
18 shals on selected passenger flights of air carriers in
19 air transportation or intrastate air transportation;

20 “(2) provide for appropriate background and
21 fitness checks for candidates for appointment as
22 Federal air marshals;

23 “(3) provide for appropriate training, super-
24 vision, and equipment of Federal air marshals at the

1 facility of the Federal Aviation Administration in
2 New Jersey;

3 “(4) require air carriers providing flights de-
4 scribed in paragraph (1) to provide seating for a
5 Federal air marshal on any such flight without re-
6 gard to the availability of seats on the flight and at
7 no cost to the United States Government or the
8 marshal;

9 “(5) require air carriers to provide, on a space-
10 available basis, to an off-duty Federal air marshal a
11 seat on a flight to the airport nearest the marshal’s
12 home at no cost to the marshal or the United States
13 Government if the marshal is traveling to that air-
14 port after completing his or her security duties; and

15 “(6) provide, in choosing among applicants for
16 a position as a Federal air marshal, a preference for
17 the hiring of a pilot of an air carrier whose employ-
18 ment with the air carrier was terminated as a result
19 of a reduction in the workforce of the air carrier if
20 the pilot is otherwise qualified for the position.

21 “(b) FLIGHTS IN FOREIGN AIR TRANSPORTATION.—
22 The Under Secretary shall work with appropriate aero-
23 nautic authorities of foreign governments under section
24 44907 to address security concerns on passenger flights
25 in foreign air transportation.

1 “(c) INTERIM MEASURES.—Until the Under Sec-
 2 retary completes implementation of subsection (a), the
 3 Under Secretary may use, after consultation with and con-
 4 currence of the heads of other Federal agencies and de-
 5 partments, personnel from those agencies and depart-
 6 ments, on a nonreimbursable basis, to provide air marshal
 7 service.”.

8 (b) CONFORMING AMENDMENT.—The analysis for
 9 chapter 449 is amended by adding after the item relating
 10 to section 44916 the following:

“44917. Deployment of Federal air marshals.”.

11 (c) BASIC PAY DEFINED.—Section 8331(3)(E) of
 12 title 5, United States Code, is amended to read as follows:

13 “(E) availability pay—
 14 “(i) received by a criminal investigator
 15 under section 5545a of this title; or
 16 “(ii) received after September 11,
 17 2001, by a Federal air marshal of the De-
 18 partment of Transportation;”.

19 **SEC. 106. ENHANCED SECURITY MEASURES.**

20 (a) IN GENERAL.—Subchapter I of chapter 449 is
 21 further amended by adding at the end the following:

22 **“§ 44918. Enhanced security measures**

23 “(a) IN GENERAL.—To the extent the Under Sec-
 24 retary of Transportation for Security determines appro-

1 piate, the Under Secretary shall take the following ac-
2 tions:

3 “(1) After consultation with the Administrator
4 of the Federal Aviation Administration, develop pro-
5 cedures and authorize equipment for pilots and other
6 members of the flight crew to use to defend an air-
7 craft against acts of criminal violence or aircraft pi-
8 racy.

9 “(2) After consultation with the Administrator,
10 develop and implement methods to—

11 “(A) restrict the opening of a cockpit door
12 during a flight;

13 “(B) fortify cockpit doors to deny access
14 from the cabin to the cockpit;

15 “(C) use video monitors or other devices to
16 alert pilots in the cockpit to activity in the
17 cabin; and

18 “(D) ensure continuous operation of an
19 aircraft transponder in the event of an emer-
20 gency.

21 “(3) Impose standards for the screening or in-
22 spection of persons and vehicles having access to se-
23 cure areas of an airport.

1 “(4) Require effective 911 emergency call capa-
2 bility for telephones serving passenger aircraft and
3 passenger trains.

4 “(5) Provide for the use of voice stress analysis
5 or other technologies to prevent a person who might
6 pose a danger to air safety or security from boarding
7 the aircraft of an air carrier or foreign air carrier
8 in air transportation or intrastate air transportation.

9 “(6) Develop standards and procedures for the
10 issuance, renewal, and revocation of a certificate of
11 qualification for individuals who screen passengers
12 and property at an airport.

13 “(7) Establish performance goals for individuals
14 described in paragraph (6), provide for the use of
15 threat image projection or similar devices to test
16 such individuals, and establish procedures to revoke
17 the certification of such individuals if the individuals
18 fail to maintain a required level of proficiency.

19 “(8) In consultation with air carriers and other
20 government agencies, establish policies and proce-
21 dures requiring air carriers to use information from
22 government agencies to identify individuals on pas-
23 senger lists who may be a threat to civil aviation
24 and, if such an individual is identified, to notify ap-

1 appropriate law enforcement agencies and prohibit the
2 individual from boarding an aircraft.

3 “(9) Provide for the enhanced use of computer
4 profiling to more effectively screen passengers and
5 property that will be carried in the cabin of an air-
6 craft.

7 “(10) Provide for the use of electronic tech-
8 nology that positively verifies the identity of each
9 employee and law enforcement officer who enters a
10 secure area of an airport.

11 “(11) After consultation with the Adminis-
12 trator, provide for the installation of switches in an
13 aircraft cabin to enable flight crews to discreetly no-
14 tify the pilots in the case of a security breach occur-
15 ring in the cabin.

16 “(12) Update training procedures used by the
17 Federal Aviation Administration, law enforcement
18 agencies, air carriers, and flight crews during hijack-
19 ings to include measures relating to suicidal hijack-
20 ers and other extremely dangerous events not cur-
21 rently described in the training procedures.

22 “(13) Provide for background checks of individ-
23 uals seeking instruction (including training through
24 the use of flight simulators) in flying aircraft that

1 has a minimum certificated takeoff weight of more
2 than 12,500 pounds.

3 “(14) Enter into agreements with Federal,
4 State, and local agencies under which appropriately-
5 trained law enforcement personnel from such agen-
6 cies, when traveling on a flight of an air carrier, will
7 carry a firearm and be prepared to assist Federal
8 air marshals.

9 “(15) Require more thorough background
10 checks of persons described in subparagraphs (A),
11 (B)(i), and (B)(ii) of section 44936(a) and para-
12 graph (13) of this subsection, including a review of
13 immigration records, law enforcement databases,
14 and records of other government and international
15 agencies to help determine whether the person may
16 be a threat to civil aviation.

17 “(16) Establish a uniform system of identifica-
18 tion for all State and local law enforcement per-
19 sonnel for use in obtaining permission to carry
20 weapons in aircraft cabins and in obtaining access to
21 a secured area of an airport.

22 “(17) Establish requirements under which air
23 carriers, under the supervision of the Under Sec-
24 retary, could implement trusted passenger programs
25 and use available technologies to expedite the secu-

1 rity screening of passengers who participate in such
2 programs, thereby allowing security screening per-
3 sonnel to focus on those passengers who should be
4 subject to more extensive screening.

5 “(18) In consultation with the Commissioner of
6 Food and Drugs, develop security procedures under
7 which a medical product to be transported on a
8 flight of an air carrier would not be subject to man-
9 ual or x-ray inspection if conducting such an inspec-
10 tion would irreversibly damage the product.

11 “(19) Develop security procedures to allow pas-
12 sengers transporting a musical instrument on a
13 flight of an air carrier to transport the instrument
14 in the passenger cabin of the aircraft, notwith-
15 standing any size or other restriction on carry-on
16 baggage but subject to such other reasonable terms
17 and conditions as may be established by the Under
18 Secretary or the air carrier, including imposing addi-
19 tional charges by the air carrier.

20 “(20) Provide for the use of wireless and wire
21 line data technologies enabling the private and se-
22 cure communication of threats to aid in the screen-
23 ing of passengers and other individuals on airport
24 property who are identified on any State or Federal
25 security-related data base for the purpose of having

1 an integrated response coordination of various au-
2 thorized airport security forces.

3 “(b) AIRWORTHINESS OBJECTIONS BY FAA.—

4 “(1) IN GENERAL.—The Under Secretary shall
5 not take an action under subsection (a) if the Ad-
6 ministrator notifies the Under Secretary that the ac-
7 tion could adversely affect the airworthiness of an
8 aircraft.

9 “(2) REVIEW BY SECRETARY.—Notwith-
10 standing paragraph (1), the Under Secretary may
11 take an action under subsection (a), after receiving
12 a notification concerning the action from the Admin-
13 istrator under paragraph (1), if the Secretary of
14 Transportation subsequently approves the action.

15 “(c) VIEW OF NTSB.—In taking any action under
16 subsection (a) that could affect safety, the Under Sec-
17 retary shall solicit and give great weight to the views of
18 the National Transportation Safety Board.

19 “(d) PROPERTY SECURITY PROGRAM.—

20 “(1) CHECKED BAGGAGE.—

21 “(A) FINAL DEADLINE FOR SCREENING.—

22 A system must be in operation to screen all
23 checked baggage at all airports in the United
24 States no later than December 31, 2003.

1 “(B) USE OF EXPLOSIVE DETECTION
2 EQUIPMENT.—The Under Secretary shall en-
3 sure that explosive detection equipment in-
4 stalled at airports to screen checked baggage is
5 used to the maximum extent possible.

6 “(C) INSTALLATION OF ADDITIONAL EX-
7 PLOSIVE DETECTION EQUIPMENT.—The Under
8 Secretary shall install additional explosive de-
9 tection equipment at airports as soon as pos-
10 sible to ensure that all checked baggage is
11 screened before being placed in an aircraft.

12 “(D) INTERIM BAG-MATCH PROGRAMS.—
13 Until the Under Secretary has installed enough
14 explosive detection equipment at airports to en-
15 sure that all checked baggage is screened, the
16 Under Secretary shall require air carriers to
17 implement bag-match programs that ensure
18 that no checked baggage is placed in an aircraft
19 unless the passenger who checks the baggage is
20 aboard the aircraft.

21 “(2) CARGO DEADLINE.—A system must be in
22 operation to screen all cargo that is to be trans-
23 ported in passenger aircraft in air transportation
24 and intrastate air transportation as soon as prac-

1 ticable after the date of enactment of this para-
2 graph.

3 “(e) LIMITATION ON CERTAIN ACTIONS.—The Sec-
4 retary of Transportation shall not take any action to pre-
5 vent a pilot of an air carrier from taking a firearm into
6 the cockpit of the aircraft if the policy of the air carrier
7 permits its pilots to be armed and the pilot has success-
8 fully completed a training program for the carriage of fire-
9 arms aboard aircraft that is acceptable to the Under Sec-
10 retary.

11 “(f) REPORT.—Not later than 6 months after the
12 date of enactment of this section, and annually thereafter
13 until the Under Secretary determines whether or not to
14 take each of the actions specified in subsection (a), the
15 Under Secretary shall transmit to Congress a report on
16 the progress of the Under Secretary in evaluating and tak-
17 ing such actions, including any legislative recommenda-
18 tions that the Under Secretary may have for enhancing
19 transportation security, and on the progress the Under
20 Secretary is making in carrying out subsection (d).”.

21 (b) CONFORMING AMENDMENT.—The analysis for
22 chapter 449 is amended by inserting after the item relat-
23 ing to section 44917 the following:

“44918. Enhanced security measures.”.

24 (c) REPEAL OF EXISTING REPORTING REQUIRE-
25 MENT.—

1 (1) IN GENERAL.—Section 44938 is amended—

2 (A) in the section heading by striking
3 “**REPORTS**” and inserting “**REPORT**”; and

4 (B) by striking “(a) TRANSPORTATION SE-
5 CURITY.—” and all that follows through “(b)
6 SCREENING AND FOREIGN AIR CARRIER AND
7 AIRPORT SECURITY.—The Administrator” and
8 inserting “The Under Secretary of Transpor-
9 tation for Security”.

10 (2) CHAPTER ANALYSIS.—The analysis for
11 chapter 449 is amended by striking the item relating
12 section 44938 and inserting the following:

“44938. Report.”.

13 **SEC. 107. CRIMINAL HISTORY RECORD CHECK FOR**
14 **SCREENERS AND OTHERS.**

15 Section 44936(a) is amended—

16 (1) in paragraph (1)(E)(iv)(II) by striking the
17 period at the end and inserting “; except that at
18 such an airport, the airport operator, air carriers,
19 and certified screening companies may elect to im-
20 plement the requirements of this subparagraph in
21 advance of the effective date if the Under Secretary
22 (or the Administrator of the Federal Aviation Ad-
23 ministration before the transfer of civil aviation se-
24 curity responsibilities to the Under Secretary) ap-
25 proves of such early implementation and if the air-

1 port operator, air carriers, and certified screening
2 companies amend their security programs to con-
3 form those programs to the requirements of this
4 subparagraph.”;

5 (2) by adding at the end of paragraph (1) the
6 following:

7 “(G) BACKGROUND CHECKS OF CURRENT
8 EMPLOYEES.—A background check (including a
9 criminal history record check and a review of
10 available law enforcement data bases and
11 records of other governmental and international
12 agencies) shall be required for any individual
13 who currently has unescorted access to an air-
14 craft of an air carrier or foreign air carrier,
15 unescorted access to a secured area of an air-
16 port in the United States that serves an air car-
17 rier or foreign air carrier, or is responsible for
18 screening passengers or property, or both, un-
19 less that individual was subject to such a
20 background check before the individual began
21 his or her current employment or is exempted
22 from such a check under section 107.31(m) of
23 title 14, Code of Federal Regulations.”; and

24 (3) in paragraph (2)—

1 (A) by striking “or airport operator” and
 2 inserting “airport operator, or certificated
 3 screening company”; and

4 (B) by adding at the end the following: “In
 5 this paragraph, the term ‘certificated screening
 6 company’ means a screening company to which
 7 the Under Secretary has issued a screening
 8 company certificate authorizing the screening
 9 company to provide security screening.”.

10 **SEC. 108. PASSENGER AND BAGGAGE SCREENING FEE.**

11 (a) IN GENERAL.—Subchapter II of chapter 449 is
 12 amended by adding at the end the following:

13 **“§ 44939. Passenger and baggage screening fee**

14 **“(a) GENERAL AUTHORITY.—**

15 **“(1) PASSENGER FEES.—**The Under Secretary
 16 of Transportation for Security shall impose a fee, on
 17 passengers of air carriers and foreign air carriers in
 18 air transportation and intrastate air transportation
 19 originating at airports in the United States, to pay
 20 for the costs of the screening of passengers and
 21 property pursuant to section 44901(d). Such costs
 22 shall be limited to the salaries and benefits of
 23 screening personnel and their direct supervisors,
 24 training of screening personnel, and acquisition, op-
 25 eration, and maintenance of equipment used by

1 screening personnel and shall be determined by the
2 Under Secretary.

3 “(2) AIR CARRIER FEES.—

4 “(A) AUTHORITY.—In addition to the fee
5 imposed pursuant to paragraph (1), and only to
6 the extent that such fee is insufficient to pay
7 for the costs of the screening of passengers and
8 property pursuant to section 44901(d), the
9 Under Secretary may impose a fee on air car-
10 riers to pay for the difference between any such
11 costs and the amount collected from such fee.

12 “(B) LIMITATION.—The amounts of fees
13 collected under this paragraph may not exceed,
14 in the aggregate, the amounts paid in calendar
15 year 2000 by air carriers for screening activities
16 described in paragraph (1) as determined by
17 the Under Secretary.

18 “(b) SCHEDULE OF FEES.—In imposing fees under
19 subsection (a), the Under Secretary shall ensure that the
20 fees are reasonably related to the Transportation Security
21 Administration’s costs of providing services rendered.

22 “(c) LIMITATION ON FEE.—Fees imposed under sub-
23 section (a)(1) may not exceed \$2.50 on a 1-way trip in
24 air transportation or intrastate air transportation that
25 originates at an airport in the United States.

1 “(d) IMPOSITION OF FEE.—

2 “(1) IN GENERAL.—Notwithstanding section
3 9701 of title 31 and the procedural requirements of
4 section 553 of title 5, the Under Secretary shall im-
5 pose the fee under subsection (a)(1), and may im-
6 pose a fee under subsection (a)(2), through the pub-
7 lication of notice of such fee in the Federal Register
8 and begin collection of the fee within 60 days of the
9 date of enactment of this Act, or as soon as possible
10 thereafter.

11 “(2) SUBSEQUENT MODIFICATION OF FEE.—
12 After imposing a fee in accordance with paragraph
13 (1), the Under Secretary may modify, from time to
14 time through publication of notice in the Federal
15 Register, the imposition or collection of such fee, or
16 both.

17 “(3) LIMITATION ON COLLECTION.—No fee
18 may be collected under this section, except to the ex-
19 tent that expenditure of such fee to pay the costs of
20 activities and services for which the fee is imposed
21 is provided for in advance in an appropriations Act.

22 “(e) ADMINISTRATION OF FEES.—

23 “(1) FEES PAYABLE TO UNDER SECRETARY.—
24 All fees imposed and amounts collected under this
25 section are payable to the Under Secretary.

1 “(2) FEES COLLECTED BY AIR CARRIER.—A fee
2 imposed under subsection (a)(1) shall be collected by
3 the air carrier or foreign air carrier providing the
4 transportation described in subsection (a)(1).

5 “(3) DUE DATE FOR REMITTANCE.—A fee col-
6 lected under this section shall be remitted on the
7 last day of each calendar month by the carrier col-
8 lecting the fee. The amount to be remitted shall be
9 for the calendar month preceding the calendar
10 month in which the remittance is made.

11 “(4) INFORMATION.—The Under Secretary may
12 require the provision of such information as the
13 Under Secretary decides is necessary to verify that
14 fees have been collected and remitted at the proper
15 times and in the proper amounts.

16 “(f) RECEIPTS CREDITED AS OFFSETTING COLLEC-
17 TIONS.—Notwithstanding section 3302 of title 31, any fee
18 collected under this section—

19 “(1) shall be credited as offsetting collections to
20 the account that finances the activities and services
21 for which the fee is imposed;

22 “(2) shall be available for expenditure only to
23 pay the costs of activities and services for which the
24 fee is imposed; and

25 “(3) shall remain available until expended.

1 “(g) REFUNDS.—The Under Secretary may refund
2 any fee paid by mistake or any amount paid in excess of
3 that required.”.

4 (b) CONFORMING AMENDMENT.—The analysis for
5 chapter 449 is amended by adding after the item relating
6 to section 44938 the following:

“44939. Passenger and baggage screening fee.”.

7 (c) EXEMPTIONS.—Section 44915 is amended by
8 striking “and 44936” and inserting “44936, and 44939”.

9 **SEC. 109. AUTHORIZATIONS OF APPROPRIATIONS.**

10 (a) IN GENERAL.—Subchapter II of chapter 449 is
11 further amended by adding at the end the following:

12 **“§ 44940. Authorizations of appropriations**

13 “(a) OPERATIONS OF TRANSPORTATION SECURITY
14 ADMINISTRATION.—There are authorized to be appro-
15 priated such sums as may be necessary for the operations
16 of the Transportation Security Administration, including
17 the functions of the Administration under section
18 44901(d) if the fees imposed under section 44939 are in-
19 sufficient to cover the costs of such functions.

20 “(b) GRANTS FOR AIRCRAFT SECURITY.—There is
21 authorized to be appropriated \$500,000,000 for the Sec-
22 retary of Transportation to make grants to air carriers
23 to—

24 “(1) fortify cockpit doors to deny access from
25 the cabin to the pilots in the cockpit;

1 “(2) provide for the use of video monitors or
2 other devices to alert the cockpit crew to activity in
3 the passenger cabin;

4 “(3) ensure continuous operation of the aircraft
5 transponder in the event the crew faces an emer-
6 gency; and

7 “(4) provide for the use of other innovative
8 technologies to enhance aircraft security.

9 “(c) AIRPORT SECURITY.—

10 “(1) IN GENERAL.—There is authorized to be
11 appropriated to the Secretary for fiscal years 2002
12 and 2003 a total of \$1,500,000,000 to reimburse
13 airport operators for direct costs incurred by such
14 operators to comply with new, additional, or revised
15 security requirements imposed on such operators by
16 the Federal Aviation Administration or Transpor-
17 tation Security Administration on or after Sep-
18 tember 11, 2001. Such sums shall remain available
19 until expended.

20 “(2) CONDITIONS.—Before providing financial
21 assistance to an airport operator with funds appro-
22 priated pursuant to paragraph (1), the Secretary
23 shall require the operator to provide assurances that
24 the operator will—

1 “(A) meet with the tenants of the airport
 2 (other than air carriers and foreign air carriers)
 3 to discuss adjustments of the rent of the ten-
 4 ants to account for losses in revenue incurred
 5 by the tenants on and after September 11,
 6 2001; and

7 “(B) provide to the Secretary an itemized
 8 list of costs incurred by the operator to comply
 9 with the security requirements described in
 10 paragraph (1), including costs relating to land-
 11 ing fees, automobile parking revenues, rental
 12 cars, restaurants, and gift shops.”.

13 (b) CONFORMING AMENDMENT.—The analysis for
 14 chapter 449 is amended by adding after the item relating
 15 to section 44939 the following:

“44940. Authorizations of appropriations.”.

16 **SEC. 110. LIMITATION ON LIABILITY FOR ACTS TO THWART**
 17 **CRIMINAL VIOLENCE OR AIRCRAFT PIRACY.**

18 Section 44903 is amended by adding at the end the
 19 following:

20 “(h) LIMITATION ON LIABILITY FOR ACTS TO
 21 THWART CRIMINAL VIOLENCE OR AIRCRAFT PIRACY.—
 22 An individual shall not be liable for damages in any action
 23 brought in a Federal or State court arising out of the acts
 24 of the individual in attempting to thwart an act of criminal
 25 violence or piracy on an aircraft if that individual in good

1 faith believed that such an act of criminal violence or pi-
2 racy was occurring or was about to occur.”.

3 **SEC. 111. PASSENGER MANIFESTS.**

4 Section 44909 is amended by adding at the end the
5 following:

6 “(c) FLIGHTS IN FOREIGN AIR TRANSPORTATION TO
7 THE UNITED STATES.—

8 “(1) IN GENERAL.—Not later than 60 days
9 after the date of enactment of this subsection, the
10 Under Secretary of Transportation for Security shall
11 require each air carrier and foreign air carrier oper-
12 ating a passenger flight in foreign air transportation
13 to the United States to provide to the Under Sec-
14 retary by electronic transmission a passenger and
15 crew manifest containing the information specified
16 in paragraph (2).

17 “(2) INFORMATION.—A passenger and crew
18 manifest for a flight required under paragraph (1)
19 shall contain the following information:

20 “(A) The full name of each passenger and
21 crew member.

22 “(B) The date of birth and citizenship of
23 each passenger and crew member.

24 “(C) The sex of each passenger and crew
25 member.

1 “(D) The passport number and country of
2 issuance of each passenger and crew member if
3 required for travel.

4 “(E) The United States visa number or
5 resident alien card number of each passenger
6 and crew member, as applicable.

7 “(F) The passenger name record of each
8 passenger.

9 “(G) Such other information as the Under
10 Secretary, by regulation, determines is reason-
11 ably necessary to ensure aviation safety.

12 “(3) TRANSMISSION OF MANIFEST.—Subject to
13 paragraph (4), a passenger and crew manifest re-
14 quired for a flight under paragraph (1) shall be
15 transmitted to the Under Secretary in advance of
16 the aircraft landing in the United States in such
17 manner, time, and form as the Under Secretary pre-
18 scribes.

19 “(4) TRANSMISSION OF MANIFESTS TO OTHER
20 FEDERAL AGENCIES.—The Under Secretary may re-
21 quire by regulation that a passenger and crew mani-
22 fest required for a flight under paragraph (1) be
23 transmitted directly to the head of another Federal
24 agency.”.

1 **SEC. 112. TRANSPORTATION SECURITY OVERSIGHT BOARD.**

2 (a) IN GENERAL.—Chapter 449 is amended by add-
3 ing at the end the following:

4 “SUBCHAPTER III—TRANSPORTATION
5 SECURITY OVERSIGHT BOARD

6 “§ 44951. **Transportation Security Oversight Board**

7 “(a) IN GENERAL.—There is established a board to
8 be known as a ‘Transportation Security Oversight Board’.

9 “(b) MEMBERSHIP.—

10 “(1) NUMBER AND APPOINTMENT.—The Board
11 shall be composed of 5 members as follows:

12 “(A) The Secretary of Transportation (or
13 the Secretary’s designee).

14 “(B) The Attorney General (or the Attor-
15 ney General’s designee).

16 “(C) The Secretary of the Treasury (or the
17 Secretary’s designee).

18 “(D) The Secretary of Defense (or the
19 Secretary’s designee).

20 “(E) One member appointed by the Presi-
21 dent to represent the National Security Council
22 or the Office of Homeland Security.

23 “(2) CHAIRPERSON.—The Chairperson of the
24 Board shall be the Secretary of Transportation.

25 “(c) DUTIES.—The Board shall—

1 “(1) review and ratify or disapprove any regula-
2 tion or security directive issued by the Under Sec-
3 retary of Transportation for security under section
4 114(h)(2) within 30 days after the date of issuance
5 of such regulation or directive;

6 “(2) share intelligence information with the
7 Under Secretary;

8 “(3) review—

9 “(A) plans for transportation security;

10 “(B) standards established for perform-
11 ance of airport security screening personnel;

12 “(C) compensation being paid to airport
13 security screening personnel;

14 “(D) procurement of security equipment;

15 “(E) selection, performance, and com-
16 pensation of senior executives in the Transpor-
17 tation Security Administration;

18 “(F) waivers granted by the Under Sec-
19 retary under section 120 of the Airport Security
20 Federalization Act of 2001 and may ratify or
21 disapprove such waivers; and

22 “(G) budget requests of the Under Sec-
23 retary; and

1 “(4) make recommendations to the Under Sec-
2 retary regarding matters reviewed under paragraph
3 (3).

4 “(d) QUARTERLY MEETINGS.—The Board shall meet
5 at least quarterly.

6 “(e) CONSIDERATION OF SECURITY INFORMATION.—
7 A majority of the Board may vote to close a meeting of
8 the Board to the public when classified, sensitive security
9 information, or information protected in accordance with
10 section 40119(b), will be discussed.

11 **“§ 44952. Advisory council**

12 “(a) ESTABLISHMENT.—The Under Secretary of
13 Transportation for Security shall establish an advisory
14 council to be known as the ‘Transportation Security Advi-
15 sory Council’.

16 “(b) MEMBERSHIP.—The Council shall be composed
17 of members appointed by the Under Secretary to represent
18 all modes of transportation, transportation labor, screen-
19 ing companies, organizations representing families of vic-
20 tims of transportation disasters, and other entities af-
21 fected or involved in the transportation security process.

22 “(c) DUTIES.—The Council shall provide advice and
23 counsel to the Under Secretary on issues which affect or
24 are affected by the operations of the Transportation Secu-
25 rity Administration. The Council shall function as a re-

1 source for management, policy, spending, and regulatory
2 matters under the jurisdiction of the Transportation Secu-
3 rity Administration.

4 “(d) ADMINISTRATIVE MATTERS.—

5 “(1) MEETINGS.—The Council shall meet on a
6 regular and periodic basis or at the call of the Chair-
7 person or the Under Secretary.

8 “(2) ACCESS TO DOCUMENTS AND STAFF.—The
9 Under Secretary may give the Council appropriate
10 access to relevant documents and personnel of the
11 Administration, and the Under Secretary shall make
12 available, consistent with the authority to withhold
13 commercial and other proprietary information under
14 section 552 of title 5 (commonly known as the
15 ‘Freedom of Information Act’), cost data associated
16 with the acquisition and operation of security screen-
17 ing equipment. Any member of the Council who re-
18 ceives commercial or other proprietary data from the
19 Under Secretary shall be subject to the provisions of
20 section 1905 of title 18, pertaining to unauthorized
21 disclosure of such information.

22 “(3) CHAIRPERSON AND VICE CHAIRPERSON.—
23 The Council shall elect a Chairperson and a Vice
24 Chairperson from among the members, each of
25 whom shall serve for a term of 2 years. The Vice

1 Chairperson shall perform the duties of the Chair-
 2 person in the absence of the Chairperson.

3 “(4) TRAVEL AND PER DIEM.—Each member of
 4 the Council shall be paid actual travel expenses, and
 5 per diem in lieu of subsistence expenses when away
 6 from his or her usual place of residence, in accord-
 7 ance with section 5703 of title 5.

8 “(5) DETAIL OF PERSONNEL FROM THE ADMIN-
 9 STRATION.—The Under Secretary shall make avail-
 10 able to the Council such staff, information, and ad-
 11 ministrative services and assistance as may reason-
 12 ably be required to enable the Council to carry out
 13 its responsibilities under this section.

14 “(e) FEDERAL ADVISORY COMMITTEE ACT NOT TO
 15 APPLY.—The Federal Advisory Committee Act (5 U.S.C.
 16 App.) does not apply to the Council.”.

17 (b) CONFORMING AMENDMENT.—The analysis for
 18 chapter 449 is amended by adding at the end the fol-
 19 lowing:

20 “SUBCHAPTER III—TRANSPORTATION SECURITY
 21 OVERSIGHT BOARD

“44951. Transportation Security Oversight Board.
 “44952. Advisory council.”.

22 **SEC. 113. AIRPORT IMPROVEMENT PROGRAMS.**

23 (a) COMPETITION PLAN.—Section 47106(f) is
 24 amended—

1 (1) by redesignating paragraph (3) as para-
2 graph (4); and

3 (2) by inserting after paragraph (2) the fol-
4 lowing:

5 “(3) SPECIAL RULE FOR FISCAL YEAR 2002.—
6 This subsection does not apply to any passenger fa-
7 cility fee approved, or grant made, in fiscal year
8 2002 if the fee or grant is to be used to improve se-
9 curity at a covered airport.”.

10 (b) AIRPORT DEVELOPMENT DEFINED.—Section
11 47102(3) is amended by adding at the end the following:

12 “(J) hiring, training, compensating, or re-
13 imbursement for law enforcement personnel at
14 a non-hub or small hub airport (as defined in
15 section 41731).

16 “(K) in fiscal year 2002, any activity, in-
17 cluding operational activities, of an airport that
18 is not a primary airport if that airport is lo-
19 cated within the confines of enhanced class B
20 airspace, as defined by Notice to Airmen FDC
21 1/0618 issued by the Federal Aviation Adminis-
22 tration.

23 “(L) in fiscal year 2002, payments for
24 debt service on indebtedness incurred to carry
25 out a project at an airport owned or controlled

1 by the sponsor or at a privately owned or oper-
 2 ated airport passenger terminal financed by in-
 3 debtedness incurred by the sponsor if the Sec-
 4 retary determines that such payments are nec-
 5 essary to prevent a default on the indebted-
 6 ness.”.

7 (c) REIMBURSEMENT FOR PAST EXPENSES.—Sec-
 8 tion 47110(b)(2) is amended—

9 (1) by striking “or” at the end of subparagraph
 10 (B);

11 (2) by inserting after the semicolon at the end
 12 of the subparagraph (C)(iii) “or”; and

13 (3) by inserting at the end the following:

14 “(D) if the cost is incurred after September 11,
 15 2001, for a project described in subparagraphs (J),
 16 (K), or (L) of section 47102(3) without regard to
 17 the date of execution of a grant agreement under
 18 this subchapter.”.

19 (d) FEDERAL SHARE.—Section 47109(a) is
 20 amended—

21 (1) by striking “and” at the end of paragraph
 22 (3);

23 (2) by striking the period at the end of para-
 24 graph (4) and inserting “; and”; and

25 (3) by adding at the end the following:

1 “(5) 100 percent for a project described in sub-
2 paragraphs (J), (K), or (L) of section 47102(3).”.

3 (e) CONFORMING AMENDMENT TO AIRPORT AND
4 AIRWAY TRUST FUND.—Section 9502(d)(1)(A) of the In-
5 ternal Revenue Code of 1986 (relating to airport and air-
6 way program) is amended by inserting “or the Airport Se-
7 curity Federalization Act of 2001” after “21st Century”.

8 **SEC. 114. TECHNICAL CORRECTIONS.**

9 (a) REPORT DEADLINE.—Section 106(a) of the Air
10 Transportation Safety and System Stabilization Act (Pub-
11 lic Law 107–42) is amended by striking “February 1,
12 2001” and inserting “February 1, 2002”.

13 (b) INSURANCE AND REINSURANCE OF AIRCRAFT.—
14 Section 44306(c) (as redesignated by section 201(d) of
15 such Act) is amended by inserting “in the interest of air
16 commerce or national security” before “to carry out for-
17 eign policy”.

18 (c) FEDERAL CREDIT INSTRUMENTS.—Section
19 102(c)(2)(A) of such Act is amended by striking “rep-
20 resentatives” and inserting “representations”.

21 (d) MAXIMUM AMOUNT OF COMPENSATION PAYABLE
22 PER AIR CARRIER.—Section 103 of such Act is amended
23 by adding at the end the following:

24 “(d) COMPENSATION FOR AIR CARRIERS PROVIDING
25 AIR AMBULANCE SERVICES.—

1 “(1) SET-ASIDE.—The President may set aside
 2 a portion of the amount of compensation payable to
 3 air carriers under section 101(a)(2) to provide com-
 4 pensation to air carriers providing air ambulance
 5 services. The President shall reduce the
 6 \$4,500,000,000 specified in subsection (b)(2)(A)(i)
 7 by the amount set aside under this subsection.

8 “(2) DISTRIBUTION OF AMOUNTS.—The Presi-
 9 dent shall distribute the amount set aside under this
 10 subsection proportionally among air carriers pro-
 11 viding air ambulance services based on an appro-
 12 priate auditable measure, as determined by the
 13 President.”.

14 **SEC. 115. ALCOHOL AND CONTROLLED SUBSTANCE TEST-**
 15 **ING.**

16 Chapter 451 is amended—

17 (1) by striking “contract personnel” each place
 18 it appears and inserting “personnel”;

19 (2) by striking “contract employee” each place
 20 it appears and inserting “employee”;

21 (3) in section 45106(c) by striking “contract
 22 employees” and inserting “employees”;

23 (4) by inserting after section 45106 the fol-
 24 lowing:

1 **“§ 45107. Transportation Security Administration**

2 “(a) TRANSFER OF FUNCTIONS RELATING TO TEST-
3 ING PROGRAMS WITH RESPECT TO AIRPORT SECURITY
4 SCREENING PERSONNEL.—The authority of the Adminis-
5 trator of the Federal Aviation Administration under this
6 chapter with respect to programs relating to testing of air-
7 port security screening personnel are transferred to the
8 Under Secretary of Transportation for Security. Notwith-
9 standing section 45102(a), the regulations prescribed
10 under section 45102(a) shall require testing of such per-
11 sonnel by their employers instead of by air carriers and
12 foreign air carriers.

13 “(b) APPLICABILITY OF CHAPTER WITH RESPECT TO
14 EMPLOYEES OF ADMINISTRATION.—The provisions of this
15 chapter that apply with respect to employees of the Fed-
16 eral Aviation Administration whose duties include respon-
17 sibility for safety-sensitive functions shall apply with re-
18 spect to employees of the Transportation Security Admin-
19 istration whose duties include responsibility for security-
20 sensitive functions. The Under Secretary of Transpor-
21 tation for Security, the Transportation Security Adminis-
22 tration, and employees of the Transportation Security Ad-
23 ministration whose duties include responsibility for secu-
24 rity-sensitive functions shall be subject to and comply with
25 such provisions in the same manner and to the same ex-
26 tent as the Administrator of the Federal Aviation Admin-

1 istration, the Federal Aviation Administration, and em-
 2 ployees of the Federal Aviation Administration whose du-
 3 ties include responsibility for safety-sensitive functions, re-
 4 spectively.”; and

5 (5) in the analysis for such chapter by inserting
 6 after the item relating to section 45106 the fol-
 7 lowing:

“45107. Transportation Security Administration.”.

8 **SEC. 116. CONFORMING AMENDMENTS TO SUBTITLE VII.**

9 (a) RECORDS OF EMPLOYMENT OF PILOT APPLI-
 10 CANTS.—Part A of subtitle VII is amended—

11 (1) by moving subsections (f), (g), and (h) of
 12 section 44936 from section 44936, inserting them at
 13 the end of section 44703, and redesignating them as
 14 subsections (h), (i), and (j), respectively; and

15 (2) in subsections (i) and (j) of section 44703
 16 (as moved to the end of section 44703 by paragraph
 17 (1) of this subsection), by striking “subsection (f)”
 18 each place it appears and inserting “subsection (h)”.

19 (b) INVESTIGATIONS AND PROCEDURES.—Chapter
 20 461 is amended—

21 (1) in each of sections 46101(a)(1), 46102(a),
 22 46103(a), 46104(a), 46105(a), 46106, 46107(b),
 23 and 46110(a) by inserting after “(or” the following:
 24 “the Under Secretary of Transportation for Security
 25 with respect to security duties and powers des-

1 ignated to be carried out by the Under Secretary
2 or”;

3 (2) by striking “or Administrator” each place it
4 appears and inserting “, Under Secretary, or Ad-
5 ministrator”;

6 (3) in section 46101(a)(2) by striking “of
7 Transportation or the” and inserting “, Under Sec-
8 retary, or”;

9 (4) in section 46102(b) by striking “and the
10 Administrator” and inserting “, the Under Sec-
11 retary, and the Administrator”;

12 (5) in section 46102(c) by striking “and Ad-
13 ministrator” each place it appears and inserting “,
14 Under Secretary, and Administrator”;

15 (6) in each of sections 46102(d) and 46104(b)
16 by inserting “the Under Secretary,” after “Sec-
17 retary,”;

18 (7) in the heading to section 46106 by striking
19 **“Secretary of Transportation and Admin-**
20 **istrator of the Federal Aviation Adminis-**
21 **tration”** and inserting **“Department of**
22 **Transportation”**; and

23 (8) in the item relating to section 46106 of the
24 analysis for such chapter by striking “Secretary of
25 Transportation and Administrator of the Federal

1 Aviation Administration” and inserting “Depart-
2 ment of Transportation”.

3 (c) ADMINISTRATIVE.—Section 40113 is amended—

4 (1) in subsection (a)—

5 (A) by inserting after “(or” the following:
6 “the Under Secretary of Transportation for Se-
7 curity with respect to security duties and pow-
8 ers designated to be carried out by the Under
9 Secretary or”; and

10 (B) by striking “or Administrator” and in-
11 serting “, Under Secretary, or Administrator”;
12 and

13 (2) in subsection (d)—

14 (A) by inserting after “The” the following:
15 “Under Secretary of Transportation for Secu-
16 rity or the”;

17 (B) by striking “Administration” the sec-
18 ond place it appears and inserting “Transpor-
19 tation Security Administration or Federal Avia-
20 tion Administration, as the case may be,”; and

21 (C) by striking “the Administrator de-
22 cides” and inserting “the Under Secretary or
23 Administrator, as the case may be, decides”.

24 (d) PENALTIES.—Chapter 463 is amended—

25 (1) in section 46301(d)(2)—

1 (A) by striking “, chapter 449 (except sec-
2 tions 44902, 44903(d), 44907(a)–(d)(1)(A) and
3 (d)(1)(C)–(f), 44908, and 44909),”;

4 (B) by inserting after the first sentence
5 the following: “The Under Secretary of Trans-
6 portation for Security may impose a civil pen-
7 alty for a violation of chapter 449 (except sec-
8 tions 44902, 44903(d), 44907(a)–(d)(1)(A),
9 44907(d)(1)(C)–(f), 44908, and 44909) or a
10 regulation prescribed or order issued under
11 such chapter 449.”; and

12 (C) by inserting “Under Secretary or” be-
13 fore “Administrator shall”;

14 (2) in each of paragraphs (3) and (4) of section
15 46301(d) by striking “Administrator” each place it
16 appears and inserting “Under Secretary or Adminis-
17 trator”;

18 (3) in section 46301(d)(8) by striking “Admin-
19 istrator” and inserting “Under Secretary, Adminis-
20 trator,”;

21 (4) in section 46301(h)(2) by inserting after
22 “(or” the following: “the Under Secretary of Trans-
23 portation for Security with respect to security duties
24 and powers designated to be carried out by the
25 Under Secretary or”;

1 (5) in section 46303(c)(2) by inserting “or the
2 Under Secretary of Transportation for Security”
3 after “Federal Aviation Administration”;

4 (6) in section 46311—

5 (A) by inserting after “Transportation,”
6 the following: “the Under Secretary of Trans-
7 portation for Security with respect to security
8 duties and powers designated to be carried out
9 by the Under Secretary,”;

10 (B) by inserting after “Secretary,” each
11 place it appears the following: “Under Sec-
12 retary,”; and

13 (C) by striking “or Administrator” each
14 place it appears and inserting “, Under Sec-
15 retary, or Administrator”;

16 (7) in each of sections 46313 and 46316 by in-
17 serting after “(or)” the following: “the Under Sec-
18 retary of Transportation for Security with respect to
19 security duties and powers designated to be carried
20 out by the Under Secretary or”; and

21 (8) in section 46505(d)(2) by inserting “or the
22 Under Secretary of Transportation for Security”
23 after “Federal Aviation Administration”.

1 **SEC. 117. SAVINGS PROVISION.**

2 (a) **TRANSFER OF ASSETS AND PERSONNEL.**—Ex-
3 cept as otherwise provided in this Act, those personnel,
4 property, and records employed, used, held, available, or
5 to be made available in connection with a function trans-
6 ferred to the Transportation Security Administration by
7 this Act shall be transferred to the Transportation Secu-
8 rity Administration for use in connection with the func-
9 tions transferred. Unexpended balances of appropriations,
10 allocations, and other funds made available to the Federal
11 Aviation Administration to carry out such functions shall
12 also be transferred to the Transportation Security Admin-
13 istration for use in connection with the functions trans-
14 ferred.

15 (b) **LEGAL DOCUMENTS.**—All orders, determinations,
16 rules, regulations, permits, grants, loans, contracts, settle-
17 ments, agreements, certificates, licenses, and privileges—

18 (1) that have been issued, made, granted, or al-
19 lowed to become effective by the Federal Aviation
20 Administration, any officer or employee thereof, or
21 any other Government official, or by a court of com-
22 petent jurisdiction, in the performance of any func-
23 tion that is transferred by this Act; and

24 (2) that are in effect on the effective date of
25 such transfer (or become effective after such date
26 pursuant to their terms as in effect on such effective

1 date), shall continue in effect according to their
2 terms until modified, terminated, superseded, set
3 aside, or revoked in accordance with law by the
4 Under Secretary of Transportation for Security, any
5 other authorized official, a court of competent juris-
6 diction, or operation of law.

7 (c) PROCEEDINGS.—

8 (1) IN GENERAL.—The provisions of this Act
9 shall not affect any proceedings or any application
10 for any license pending before the Federal Aviation
11 Administration at the time this Act takes effect, in-
12 sofar as those functions are transferred by this Act;
13 but such proceedings and applications, to the extent
14 that they relate to functions so transferred, shall be
15 continued. Orders shall be issued in such pro-
16 ceedings, appeals shall be taken therefrom, and pay-
17 ments shall be made pursuant to such orders, as if
18 this Act had not been enacted; and orders issued in
19 any such proceedings shall continue in effect until
20 modified, terminated, superseded, or revoked by a
21 duly authorized official, by a court of competent ju-
22 risdiction, or by operation of law.

23 (2) STATUTORY CONSTRUCTION.—Nothing in
24 this subsection shall be deemed to prohibit the dis-
25 continuance or modification of any proceeding de-

1 scribed in paragraph (1) under the same terms and
2 conditions and to the same extent that such pro-
3 ceeding could have been discontinued or modified if
4 this Act had not been enacted.

5 (3) ORDERLY TRANSFER.—The Secretary of
6 Transportation is authorized to provide for the or-
7 derly transfer of pending proceedings from the Fed-
8 eral Aviation Administration.

9 (d) SUITS.—

10 (1) IN GENERAL.—This Act shall not affect
11 suits commenced before the date of the enactment of
12 this Act, except as provided in paragraphs (2) and
13 (3). In all such suits, proceeding shall be had, ap-
14 peals taken, and judgments rendered in the same
15 manner and with the same effect as if this Act had
16 not been enacted.

17 (2) SUITS BY OR AGAINST FAA.—Any suit by or
18 against the Federal Aviation Administration begun
19 before the date of the enactment of this Act shall be
20 continued, insofar as it involves a function retained
21 and transferred under this Act, with the Transpor-
22 tation Security Administration (to the extent the
23 suit involves functions transferred to the Transpor-
24 tation Security Administration under this Act) sub-
25 stituted for the Federal Aviation Administration.

1 (3) REMANDED CASES.—If the court in a suit
2 described in paragraph (1) remands a case to the
3 Transportation Security Administration, subsequent
4 proceedings related to such case shall proceed in ac-
5 cordance with applicable law and regulations as in
6 effect at the time of such subsequent proceedings.

7 (e) CONTINUANCE OF ACTIONS AGAINST OFFI-
8 CERS.—No suit, action, or other proceeding commenced
9 by or against any officer in his official capacity as an offi-
10 cer of the Federal Aviation Administration shall abate by
11 reason of the enactment of this Act. No cause of action
12 by or against the Federal Aviation Administration, or by
13 or against any officer thereof in his official capacity, shall
14 abate by reason of the enactment of this Act.

15 (f) EXERCISE OF AUTHORITIES.—Except as other-
16 wise provided by law, an officer or employee of the Trans-
17 portation Security Administration may, for purposes of
18 performing a function transferred by this Act or the
19 amendments made by this Act, exercise all authorities
20 under any other provision of law that were available with
21 respect to the performance of that function to the official
22 responsible for the performance of the function imme-
23 diately before the effective date of the transfer of the func-
24 tion under this Act.

1 (g) ACT DEFINED.—In this section, the term “Act”
2 includes the amendments made by this Act.

3 **SEC. 118. BUDGET SUBMISSIONS.**

4 The President’s budget submission for fiscal year
5 2003 and each fiscal year thereafter shall reflect the estab-
6 lishment of the Transportation Security Administration.

7 **SEC. 119. AIRCRAFT OPERATIONS IN ENHANCED CLASS B**
8 **AIRSPACE.**

9 Notice to Airmen FDC 1/0618 issued by the Federal
10 Aviation Administration, and any other regulation, order,
11 or directive that restricts the ability of United States reg-
12 istered aircraft to conduct operations under part 91 of
13 title 14, Code of Federal Regulations, in enhanced class
14 B airspace (as defined by such Notice), shall cease to be
15 in effect beginning on the 10th day following the date of
16 the enactment of this Act, unless the Secretary of Trans-
17 portation publishes a notice in the Federal Register before
18 such 10th day reimposing the restriction and explaining
19 the reasons for the restriction.

20 **SEC. 120. WAIVERS FOR CERTAIN ISOLATED COMMUNITIES.**

21 (a) IN GENERAL.—In any case in which a restriction
22 is imposed on an air carrier (as defined in section 40102
23 of title 49, United States Code) for reasons of national
24 security by any government agency, the Under Secretary
25 of Transportation for Security may grant a waiver from

1 such restrictions for the carriage of cargo, mail, patients,
2 and emergency medical supplies (and associated per-
3 sonnel) on flights to or from a community that is not ac-
4 cessible by road, or that is more than 200 miles, from a
5 hub airport (as defined in section 41731 of such title).

6 (b) REVIEW AND DISAPPROVAL.—Any grant of a
7 waiver by the Under Secretary under this section shall be
8 subject to review and disapproval by the Transportation
9 Security Oversight Board.

10 (c) LIMITATIONS.—The Board may impose reason-
11 able limitations on any waiver granted under this section.

12 **SEC. 121. ASSESSMENTS OF THREATS TO AIRPORTS.**

13 Section 44904 is amended by adding at the end the
14 following:

15 “(d) PASSENGER VEHICLES.—

16 “(1) THREAT ASSESSMENT.—An operator of an
17 airport with scheduled passenger service, in con-
18 sultation with appropriate State or local law enforce-
19 ment authorities, may conduct a threat assessment
20 of the airport to determine whether passenger vehi-
21 cles should be permitted to park within 300 feet of
22 the airport terminal building.

23 “(2) REMOVAL OF CERTAIN RESTRICTIONS.—If
24 the airport operator, after consultation with the ap-
25 propriate State or local law enforcement authorities,

1 determines that safeguards are in place to suffi-
2 ciently protect public safety and so certifies, in writ-
3 ing, to the Secretary of Transportation, any rule,
4 order, or other directive of the Secretary prohibiting
5 the parking of passenger vehicles within 300 feet of
6 an airport terminal building shall not apply to the
7 terminal building at such airport.”.

8 **SEC. 122. REQUIREMENT TO HONOR PASSENGER TICKETS**
9 **OF OTHER CARRIERS.**

10 (a) IN GENERAL.—Subchapter I of chapter 417 is
11 amended by adding at the end the following:

12 **“§ 41722. Requirement to honor passenger tickets of**
13 **other carriers**

14 “Each air carrier that provides scheduled air trans-
15 portation on a route shall provide, to the extent prac-
16 ticable, air transportation to passengers ticketed for air
17 transportation on that route by any other air carrier that
18 suspends, interrupts, or discontinues air passenger service
19 on the route by reason of an act of war or terrorism or
20 insolvency or bankruptcy of the carrier.”.

21 (b) CONFORMING AMENDMENT.—The analysis for
22 such subchapter is amended by adding at the end the fol-
23 lowing:

“41722. Requirement to honor passenger tickets of other carriers.”.

1 **SEC. 123. SENSE OF CONGRESS ON CERTAIN AVIATION**
2 **MATTERS.**

3 (a) **FLIGHT SERVICE STATION EMPLOYEES.**—It is
4 the sense of Congress that the Administrator of the Fed-
5 eral Aviation Administration should continue negotiating
6 in good faith with flight service station employees of the
7 Administration with a goal of reaching agreement on a
8 contract as soon as possible.

9 (b) **WAR RISK INSURANCE.**—It is the sense of Con-
10 gress that the Secretary of Transportation should imple-
11 ment section 202 of the Air Transportation Safety and
12 System Stabilization Act (Public Law 107–42) so as to
13 make war risk insurance available to vendors, agents, and
14 subcontractors of general aviation aircraft.

15 (c) **TRANSPORT OF ANIMALS.**—It is the sense of Con-
16 gress that an air carrier that transports mail under a con-
17 tract with the United States Postal Service should trans-
18 port any animal that the Postal Service allows to be
19 shipped through the mail.

20 (d) **SCREENING.**—It is the sense of Congress that the
21 Under Secretary of Transportation for Security should re-
22 quire, as soon as practicable, that all property carried in
23 a passenger aircraft in air transportation or intrastate air
24 transportation (including checked baggage) be screened by
25 any currently available means, including X-ray machine,

1 hand-held metal detector, explosive detection system
2 equipment, or manual search.

3 (e) CONTRACTS FOR AIRPORT SECURITY SERV-
4 ICES.—It is the sense of Congress that, in awarding a con-
5 tract for airport security services, the Under Secretary of
6 Transportation for Security should, to the maximum ex-
7 tent practicable, award the contract to a firm that is
8 owned and controlled by a citizen of the United States.

9 **TITLE II—VICTIMS** 10 **COMPENSATION**

11 **SEC. 201. LIMITATION ON LIABILITY FOR DAMAGES ARIS-**
12 **ING OUT OF CRASHES OF SEPTEMBER 11,**
13 **2001.**

14 Section 408 of the Air Transportation Safety and
15 System Stabilization Act (Public Law 107–42; 115 Stat.
16 240; 49 U.S.C. 40101 note) is amended—

17 (1) by amending the section heading to read as
18 follows:

19 **“SEC. 408. LIMITATION ON LIABILITY FOR DAMAGES ARIS-**
20 **ING OUT OF CRASHES OF SEPTEMBER 11,**
21 **2001.”;**

22 (2) by amending subsection (a) to read as fol-
23 lows:

24 **“(a) GENERAL LIMITATION OF LIABILITY.—Except**
25 **as provided in this section, no Federal court or agency**

1 or State court or agency shall enforce any Federal or State
2 law holding any person, or any State or political subdivi-
3 sion thereof, liable for any damages arising out of the hi-
4 jacking and subsequent crashes of American Airlines
5 flights 11 or 77, or United Airlines flights 93 or 175, on
6 September 11, 2001.”;

7 (3) in subsection (b), by adding at the end the
8 following new paragraphs:

9 “(4) DAMAGES.—If any party to any action
10 brought under this subsection is determined to be
11 liable—

12 “(A) no damages in the aggregate ordered
13 by the court to be paid by such party shall ex-
14 ceed the amount of insurance, minus any pay-
15 ments made pursuant to a court approved set-
16 tlement, which such party is determined to have
17 obtained prior to September 11, 2001, and
18 which is determined to cover such party’s liabil-
19 ity for any damages arising out of the hijacking
20 and subsequent crashes of American Airlines
21 flights 11 or 77, or United Airlines flights 93
22 or 175, on September 11, 2001;

23 “(B) such party shall not be liable for in-
24 terest prior to the judgment or for punitive
25 damages intended to punish or deter; and

1 “(C) the court shall reduce the amount of
2 damages awarded to a plaintiff by the amount
3 of collateral source compensation that the plain-
4 tiff has received or is entitled to receive as a re-
5 sult of the terrorist-related aircraft crashes of
6 September 11, 2001.

7 “(5) ATTORNEYS’ FEES.—Reasonable attor-
8 neys’ fees for work performed in any action brought
9 under this subsection shall be subject to the discre-
10 tion of the court, but in no event shall any attorney
11 charge, demand, receive, or collect for services ren-
12 dered, fees in excess of 20 percent of the damages
13 ordered by the court to be paid pursuant to this sub-
14 section, or in excess of 20 percent of any court ap-
15 proved settlement made of any claim cognizable
16 under this subsection. Any attorney who charges, de-
17 mands, receives, or collects for services rendered in
18 connection with such claim any amount in excess of
19 that allowed under this subsection, if recovery be
20 had, shall be fined not more than \$2,000 or impris-
21 oned not more than one year, or both.”;

22 (4) by amending subsection (c) to read as fol-
23 lows:

24 “(c) EXCLUSION.—Nothing in this section shall in
25 any way limit any liability of any person who—

1 “(1) hijacks any aircraft or commits any ter-
2 rorist act; or

3 “(2) knowingly participates in a conspiracy to
4 hijack any aircraft or commit any terrorist act.”;
5 and

6 (5) by adding at the end the following new sub-
7 sections:

8 “(d) DISCLAIMER.—Nothing herein implies that any
9 person is liable for damages arising out of the hijacking
10 and subsequent crashes of American Airlines flights 11
11 or 77, or United Airlines flights 93 or 175, on September
12 11, 2001.

13 “(e) STATE DEFINED.—In this section, the term
14 ‘State’ means any State of the United States, the District
15 of Columbia, the Commonwealth of Puerto Rico, the
16 Northern Mariana Islands, the United States Virgin Is-
17 lands, Guam, American Samoa, and any other territory
18 of possession of the United States or any political subdivi-
19 sion of any of the foregoing.”.

Passed the House of Representatives November 1,
2001.

Attest:

Clerk.

107TH CONGRESS
1ST SESSION

H. R. 3150

AN ACT

To improve aviation security, and for other
purposes.